



JOHNNY SMITH

185 IBLA 254

Decided March 24, 2015



United States Department of the Interior
Office of Hearings and Appeals

Interior Board of Land Appeals
801 N. Quincy St., Suite 300
Arlington, VA 22203

JOHNNY SMITH

IBLA 2014-207

Decided March 24, 2015

Appeal from a decision of the Nevada State Office, Bureau of Land Management, declaring unpatented mining claims abandoned and void for failure to cure defects within 30 days of receipt of notice. NMC1095553, *et al.*

Affirmed.

1. Federal Land Policy and Management Act of 1976:
Recordation of Mining Claims or Abandonment--Mining
Claims: Rental or Claim Maintenance Fees: Small Miner
Exemption

When BLM determines that a claimant has filed any defective document other than a defective fee waiver request, it must send the claimant a notice of the defect by certified mail—return receipt requested, and the claimant must cure the defect within 30 days of receipt of BLM's notification of the defect. If a claimant fails to submit the required documentation within the 30-day period, the claimant forfeits the mining claims.

APPEARANCES: Johnny Smith, McDermott, Nevada, *pro se*.

OPINION BY ADMINISTRATIVE JUDGE ROBERTS

Johnny Smith has appealed from a May 30, 2014, decision of the Nevada State Office, Bureau of Land Management (BLM), which declared eight unpatented lode mining claims, CMC #1 through #8 (NMC1095553 through NMC1095660) abandoned and void for failure to file amendments to claim location documents within 30 days of receipt of notice from BLM.

As discussed below, Smith failed to submit the required amendments within the 30-day period established by BLM. We therefore affirm BLM's decision.

Background

On November 14, 2013, BLM received certificates of location (COLs) and a claim map for the CMC #1 through #8 unpatented mining claims, accompanied by the required fees. During a land status review of the claims, BLM identified discrepancies between the location and description of the claims on the COLs and the location and dimensions identified on the claim map. On April 17, 2014, BLM sent Smith a notice requiring him to file additional information, including amended COLs with the correct legal description and dimensions for the claims, as well as a corrected map. BLM made clear that “[a]mended COLs must be recorded in the appropriate County Recorder’s Office prior to filing them with [BLM’s] office, and [BLM] must receive a copy of the amended COL showing the county recordation.” Decision at 2. BLM further informed Smith that, pursuant to 43 C.F.R. § 3830.94(b), the amended COLs must be received by BLM within 30 days of receipt of the notice, and that failure to comply would result in issuance of a decision declaring the subject claims abandoned and void pursuant to 43 C.F.R. § 3830.94(d).

BLM did not receive the requested amendments within the required timeframe, and accordingly declared the claims abandoned and void. In its decision, BLM noted that the claims may be relocated if there are not intervening rights and the lands are open to mineral relocation.

In his statement of reasons (SOR) for appeal, Smith states he “was unaware of having to send the papers [he] filed to BLM.” He explains that he is “unable to read or write” and that “at the time [he] had no help.” He requests “another chance to get this right,” and that he “has asked for help now.” He states that he “amended the map and filed it in Winnemucca, NV, and was never told to send a copy to BLM.”

Analysis

[1] When BLM determines that a claimant has filed any defective document other than a defective fee waiver request, BLM must send the claimant a notice of the defect by certified mail—return receipt requested. 43 C.F.R. § 3830.94(a). The claimant must cure the defect within 30 days of receipt of BLM’s notification of the defects. 43 C.F.R. § 3830.94(b). If a claimant fails to submit the required documentation within the 30-day period, the claimant forfeits the mining claims or sites. 43 C.F.R. § 3830.91(a)(8); *see also* 43 C.F.R. §§ 3830.93(b), 3830.94(d).

A mining claimant on Federal lands has a responsibility to respond to information requests from the agency charged by the United States Congress with managing the Federal lands and resources the claimant wishes to exploit. BLM is responsible for managing vast areas of public lands and resources, and it is essential that it be provided the information necessary to perform that role. Accordingly, it is the obligation of every citizen who wishes to enjoy and exploit the public lands and

resources to respond to BLM's efforts to obtain necessary information. Although the Board is sympathetic to Smith's personal challenges, it is his responsibility as a mining claimant on public lands to make due preparations and arrangements so that he can and will respond to BLM's correspondence in a timely manner. In accordance with applicable regulations, 43 C.F.R. §§ 3830.91(a)(8), 3830.93(b), and 3830.94(d), we conclude that BLM properly declared the mining claims abandoned and void.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the decision appealed from is affirmed.

_____/s/
James F. Roberts
Administrative Judge

I concur:

_____/s/
Eileen Jones
Chief Administrative Judge